

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
STEVEN SCAGGS, et al.,

Plaintiffs,

- against -

NEW YORK STATE DEPARTMENT OF  
EDUCATION, et al.,

Defendants.  
-----X

**MAUSKOPF, United States District Judge.**

**ORDER**

06-CV-799 (RRM) (WDW)

Pursuant to Rules 37 and 41(b) of the Federal Rules of Civil Procedure, Defendants Riverhead Charter School, Carter School Board of Trustees, Edison Schools, Inc., Kate Liddle, Steven Charkow, Arnold Braunskill, George Grigg, Susan Cheatum and Steven Cohen (“Defendants”) request that the following infant Plaintiffs be dismissed from this action for failure to comply with discovery and for failure prosecute:

Angela Hightower by Robin Hightower  
Anthony Hightower by Robin Hightower  
Duane Pollard by Alice Pollard  
Eddie Lee Pollard by Alice Pollard  
Latarsha Rhanes by Latasha Olin  
Ajuwanna Ward by Latanya Russell

Document 178. On April 27, 2010, the Honorable William D. Wall, United States Magistrate Judge, issued a Report and Recommendation (“R&R”) recommending “that this action be dismissed pursuant to Rule 41(b) and/or Rule 37” as to these infant Plaintiffs.

The R&R – reciting the requirements for filing objections within fourteen days of service, pursuant to Fed. R. Civ. P. 72(b), and the consequences for failure to timely object – was

electronically served upon Plaintiffs' counsel on April 27, 2010.<sup>1</sup> To date, neither party has filed objections to the R&R.

If clear notice has been given of the consequences of failure to object, as here, and there are no objections, the Court may adopt the R&R without *de novo* review. *See Mario v. P & C Food Mkts., Inc.*, 313 F.3d 758, 766 (2d Cir. 2002) ("Where parties receive clear notice of the consequences, failure timely to object to a magistrate's report and recommendation operates as a waiver of further judicial review of the magistrate's decision."). The Court will excuse the failure to object and conduct *de novo* review if it appears that the magistrate judge may have committed plain error. *See Spence v. Superintendent, Great Meadow Corr. Facility*, 219 F.3d 162, 174 (2d Cir. 2000). Upon a review of the record, this Court concludes that there is no clear error on the face of the record. Therefore, the Court adopts the R&R in full.

### CONCLUSION

Accordingly, this action is dismissed with prejudice as to (1) Angela Hightower by Robin Hightower; (2) Anthony Hightower by Robin Hightower; (3) Duane Pollard by Alice Pollard; (4) Eddie Lee Pollard by Alice Pollard; (5) Latarsha Rhane by Latasha Olin; and (6) Ajuwanna Ward by Latanya Russell.

SO ORDERED.

Dated: Brooklyn, New York  
May 25, 2010

s/RRM

\_\_\_\_\_  
ROSLYNN R. MAUSKOPF  
United States District Judge

---

<sup>1</sup> Plaintiffs' counsel informs the Court that "despite our repeated contacts and demands for response and cooperation, we have received no contact or response" from the defaulting Plaintiffs. *See* R&R at 2 (citing Document 179).